THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO.13656 of 2006

Dated: 07-07-2006

Between:

Anuradha Chakravarthi.

..... PETITIONER

AND

The Commissioner & Inspector General of Registration and Stamps, Hyderabad, and three others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION NO.13656 of 2006

ORDER:

The petitioner herein is the daughter of the fourth respondent. He executed registered gift deeds of the year 2003 in favour of the petitioner donating residential portions in house bearing No.8-3-107/1 (old No.5145). Subsequently the fourth respondent cancelled the gift deed, aggrieved by which the present writ petition is filed seeking a writ of Mandamus declaring the action of the third respondent in cancelling the registered gift deed bearing document Nos.2497/2003 and 2498/2003 as illegal and arbitrary. Learned counsel for the petitioner raised two contentions. It is contended that when once a gift deed is executed, the same cannot be cancelled by the fourth respondent. Secondly it is urged that while disposing of W.P.No.7290 of 2006 filed by the fourth respondent this Court only gave liberty to the fourth respondent to seek invalidation of the gift deed by filing a suit and therefore, the action of the third respondent is unsustainable.

The fourth respondent filed W.P.No.7290 of 2006 before this Court seeking a writ of Mandamus declaring the action of the petitioner herein and her husband in obtaining gift deeds in her favour by force as null and void. While disposing of the said writ petition, this Court observed as under.

> The petitioner appeared as party in person and narrated the facts and circumstances leading to filing of the present writ petition. If what the petitioner argued is true, it is no doubt a serious matter, which require further probe. But, having regard to the constraints in exercise of jurisdiction under Article 226 of Constitution of India, a writ petition against private persons would not lie. Secondly, if any person is aggrieved by the gift deed executed by him as donor, his remedy is to revoke such gift deed in accordance with Section 126 of Transfer of Property Act, 1882 or seek invalidation/cancellation of such gift deed by filing a suit under Section 31 of Specific Relief Act, 1963.

When a gift deed is to be revoked, the donor has such remedy under Section 126 of the Transfer of Property Act, 1882, or by filing a suit under Section 31 of the Specific Relief Act, 1963. This position was clarified by this Court. This Court also relied on its earlier judgment in **Valluri Anuradha v. Sub Registrar, Saroor Nagar**[1] and while observing that a writ petition challenging the cancellation deed is not maintainable, gave liberty to the petitioner therein to file appropriate suit. After perusing the judgment, this Court is not able to understand how the same can be of any use to the petitioner herein.

In **Valluri Anuradha v. Sub Registrar, Saroor Nagar** (supra), the facts are somewhat similar. In that case the father initially executed gift deed in favour of the daughter, which was later revoked. Challenging the same the writ petition was filed along with mother and another sister. This Court, having referred to Rule 58 of the Andhra Pradesh Rules under Registration Act, 1908, and following the earlier judgment in **Property Association of Baptist Churches v. Sub Registrar, Jangoan**[2]**,** denied any relief to the petitioner observing as under.

> A reading of the above Rule would show that a limited power is given to registering officer to enquire into the validity of the document on the ground that the executing party has no right to execute the document. This power would be no more available the moment rightly or wrongly a document presented is registered by registering officer. In such case, the remedy of the aggrieved person whose right is allegedly extinguished by reason of such registered document is to seek appropriate declaration under Section 34 of the Specific Relief Act, 1963 and cancellation of the said document under Section 33 of the said Act. In **Property Association of Baptist Churches v. Sub Registrar, Jangoan (2004(1) ALT 174)**, this Court considered similar question and held that a writ petition would not lie.

In view of the above, this writ petition is devoid of any substance and is accordingly dismissed giving liberty to the petitioner to file appropriate suit seeking declaration. No costs.

_____ **V.V.S.RAO, J**

7th July 2006
ghn

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[1] 2006(2) ALD 371

[2] 2004(1)ALT 174